

By: Zaffirini, Burton

S.B. No. 1501

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of motor vehicle towing, booting, and storage and to the elimination of required state licensing for vehicle booting companies and operators.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2303.058, Occupations Code, is amended to read as follows:

Sec. 2303.058. ADVISORY BOARD. The Towing ~~and~~ Storage ~~and Booting~~ Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.

SECTION 2. Section 2308.002, Occupations Code, is amended by amending Subdivisions (1) and (8-a) and adding Subdivisions (5-b) and (8-b) to read as follows:

(1) "Advisory board" means the Towing ~~and~~ Storage ~~and Booting~~ Advisory Board.

(5-b) "Local authority" means a state or local governmental entity authorized to regulate traffic or parking and includes:

(A) an institution of higher education; and

(B) a political subdivision, including a county, municipality, special district, junior college district, housing authority, or other political subdivision of this state.

(8-a) "Peace officer" means a person who is a peace officer under Article 2.12, Code of Criminal Procedure.

1           (8-b) "Private property tow" means any tow of a  
2 vehicle authorized by a parking facility owner without the consent  
3 of the owner or operator of the vehicle.

4           SECTION 3. Effective September 1, 2018, Section 2308.004,  
5 Occupations Code, is amended to read as follows:

6           Sec. 2308.004. EXEMPTION.           Sections 2308.151(b),  
7 2308.2085, 2308.257, and 2308.258 do [~~(a) This chapter does~~] not  
8 apply to:

9           (1) a person who, while exercising a statutory or  
10 contractual lien right with regard to a vehicle:

11                   (A) [~~(1)~~] installs or removes a boot; or

12                   (B) [~~(2)~~] controls, installs, or directs the  
13 installation and removal of one or more boots; or [~~-~~]

14           (2) [~~(b) This chapter does not apply to~~] a commercial  
15 office building owner or manager who installs or removes a boot in  
16 the building's parking facility.

17           SECTION 4. Section 2308.051(a), Occupations Code, as  
18 amended by Chapters 457 (H.B. 2548) and 845 (S.B. 2153), Acts of the  
19 81st Legislature, Regular Session, 2009, is reenacted and amended  
20 to read as follows:

21           (a) The advisory board consists of the following members  
22 appointed by the presiding officer of the commission with the  
23 approval of the commission:

24                   (1) one representative of a towing company operating  
25 in a county with a population of less than one million;

26                   (2) one representative of a towing company operating  
27 in a county with a population of one million or more;

1           (3) one representative [~~owner~~] of a vehicle storage  
2 facility located in a county with a population of less than one  
3 million;

4           (4) one representative [~~owner~~] of a vehicle storage  
5 facility located in a county with a population of one million or  
6 more;

7           (5) one parking facility representative [~~owner~~];

8           (6) one peace officer [~~law enforcement officer~~] from a  
9 county with a population of less than one million;

10          (7) one peace officer [~~law enforcement officer~~] from a  
11 county with a population of one million or more;

12          (8) one representative of a member insurer, as defined  
13 by Section 462.004, Insurance Code, of the Texas Property and  
14 Casualty Insurance Guaranty Association who writes [~~property and~~  
15 ~~casualty insurers who write~~] automobile insurance in this state;  
16 and

17          [~~(9) one representative of a booting company~~]

18          (9) one person who operates both a towing company and a  
19 vehicle storage facility [~~public member~~].

20          SECTION 5. Effective September 1, 2018, Section 2308.151,  
21 Occupations Code, is amended to read as follows:

22          Sec. 2308.151. LICENSE OR LOCAL AUTHORIZATION REQUIRED.

23          (a) Unless the person holds an appropriate license under this  
24 subchapter, a person may not:

25               (1) perform towing operations; or

26               (2) operate a towing company. [~~+~~]

27          (b) Unless a person is authorized by a local authority under

1 Section 2308.2085, a person may not:

2           (1) ~~[(3)]~~ perform booting operations; or

3           (2) ~~[(4)]~~ operate a booting company.

4           SECTION 6. Section 2308.2085, Occupations Code, is amended  
5 to read as follows:

6           Sec. 2308.2085. LOCAL AUTHORITY REGULATION OF [~~MUNICIPAL~~  
7 ~~ORDINANCE—REGULATING~~] BOOTING ACTIVITIES [~~COMPANIES—AND~~  
8 ~~OPERATORS~~]. (a) A local authority [~~municipality~~] may regulate, in  
9 areas in which the entity regulates parking or traffic, [adopt an  
10 ordinance that is identical to the] booting activities, including:

11           (1) operation of booting companies and operators that  
12 operate on a parking facility;

13           (2) any permit and sign requirements in connection  
14 with the booting of a vehicle; and

15           (3) [~~provisions in this chapter or that imposes~~  
16 ~~additional requirements that exceed the minimum standards of the~~  
17 ~~booting provisions in this chapter but may not adopt an ordinance~~  
18 ~~that conflicts with the booting provisions in this chapter.~~

19           [~~(b) A municipality may regulate the~~] fees that may be  
20 charged in connection with the booting of a vehicle[~~, including~~  
21 ~~associated parking fees~~].

22           (b) Regulations adopted under this section must:

23           (1) incorporate the requirements of Sections 2308.257  
24 and 2308.258;

25           (2) include procedures for vehicle owners and  
26 operators to file a complaint with the local authority regarding a  
27 booting company or operator;

1           (3) provide for the imposition of a penalty on a  
2 booting company or operator for a violation of Section 2308.258;  
3 and

4           (4) provide for the revocation of any permit, license,  
5 or other authority of a booting company or operator to boot vehicles  
6 if the company or operator violates Section 2308.258 more than  
7 twice in a five-year period [~~(c) A municipality may require~~  
8 ~~booting companies to obtain a permit to operate in the~~  
9 ~~municipality~~].

10           SECTION 7. Section 2308.255, Occupations Code, is amended  
11 to read as follows:

12           Sec. 2308.255. TOWING COMPANY'S [~~OR BOOT OPERATOR'S~~]  
13 AUTHORITY TO TOW [~~REMOVE~~] AND STORE [~~OR BOOT~~] UNAUTHORIZED VEHICLE.

14 (a) A towing company [~~that is insured as provided by Subsection~~  
15 ~~(c)~~] may, without the consent of an owner or operator of an  
16 unauthorized vehicle, tow the vehicle to [~~remove~~] and store the  
17 vehicle at a vehicle storage facility at the expense of the owner or  
18 operator of the vehicle if:

19           (1) the towing company has received written  
20 verification from the parking facility owner that:

21                   (A) [~~the parking facility owner has installed~~]  
22 the signs required by Section 2308.252(a)(1) are posted; or

23                   (B) the owner or operator received notice under  
24 Section 2308.252(a)(2) or the parking facility owner gave notice  
25 complying with Section 2308.252(a)(3); or

26           (2) on request the parking facility owner provides to  
27 the owner or operator of the vehicle information on the name of the

1 towing company and vehicle storage facility that will be used to tow  
2 [~~remove~~] and store the vehicle and the vehicle is:

- 3 (A) left in violation of Section 2308.251;
- 4 (B) in or obstructing a portion of a paved  
5 driveway; or
- 6 (C) on a public roadway used for entering or  
7 exiting the facility and the tow [~~removal~~] is approved by a peace  
8 officer.

9 (b) A towing company may not tow [~~remove~~] an unauthorized  
10 vehicle except under:

- 11 (1) this chapter;
- 12 (2) a municipal ordinance that complies with Section  
13 2308.208; or
- 14 (3) the direction of:
  - 15 (A) a peace officer; or
  - 16 (B) the owner or operator of the vehicle.

17 (c) Only a towing company that is insured against liability  
18 for property damage incurred in towing a vehicle may tow [~~remove~~]  
19 and store an unauthorized vehicle under this section.

20 (d) A towing company may tow [~~remove~~] and store a vehicle  
21 under Subsection (a) [~~and a boot operator may boot a vehicle under~~  
22 ~~Section 2308.257~~] only if the parking facility owner:

- 23 (1) requests that the towing company tow [~~remove~~] and  
24 store [~~or that the boot operator boot~~] the specific vehicle; or
- 25 (2) has a standing written agreement with the towing  
26 company [~~or boot operator~~] to enforce parking restrictions in the  
27 parking facility.

1       (e) When a tow truck is used for a nonconsent tow authorized  
2 by a peace officer under Section 545.3051, Transportation Code, the  
3 operator of the tow truck and the towing company are agents of the  
4 law enforcement agency and are subject to Section 545.3051(e),  
5 Transportation Code.

6       SECTION 8. Section 2308.257, Occupations Code, is amended  
7 by amending Subsection (b) and adding Subsection (b-1) to read as  
8 follows:

9       (b) A boot operator that installs a boot on a vehicle must  
10 affix a conspicuous notice to the vehicle's front windshield or  
11 driver's side window stating:

12           (1) that the vehicle has been booted and damage may  
13 occur if the vehicle is moved;

14           (2) the date and time the boot was installed;

15           (3) the name, address, and telephone number of the  
16 booting company;

17           (4) a telephone number that is answered 24 hours a day  
18 to enable the owner or operator of the vehicle to arrange for  
19 removal of the boot;

20           (5) the amount of the fee for removal of the boot and  
21 any associated parking fees; ~~and~~

22           (6) notice of the right of a vehicle owner or vehicle  
23 operator to a hearing under Subchapter J; and

24           (7) in the manner prescribed by the local authority,  
25 notice of the procedure to file a complaint with the local authority  
26 for violation of this chapter by a boot operator.

27       (b-1) No more than one boot may be installed on a vehicle at

1 any time.

2 SECTION 9. Subchapter F, Chapter 2308, Occupations Code, is  
3 amended by adding Section 2308.258 to read as follows:

4 Sec. 2308.258. BOOT REMOVAL. (a) A booting company  
5 responsible for the installation of a boot on a vehicle shall remove  
6 the boot not later than one hour after the time the owner or  
7 operator of the vehicle contacts the company to request removal of  
8 the boot.

9 (b) A booting company shall waive the amount of the fee for  
10 removal of a boot, excluding any associated parking fees, if the  
11 company fails to have the boot removed within the time prescribed by  
12 Subsection (a).

13 SECTION 10. The heading to Subchapter I, Chapter 2308,  
14 Occupations Code, is amended to read as follows:

15 SUBCHAPTER I. REGULATION OF TOWING COMPANIES [~~BOOTING~~  
16 ~~COMPANIES,~~] AND PARKING FACILITY OWNERS

17 SECTION 11. (a) The following provisions of the  
18 Occupations Code are repealed:

19 (1) Section 2308.002(9); and

20 (2) Section 2308.103(d).

21 (b) Effective September 1, 2018, Sections 2308.1555 and  
22 2308.1556, Occupations Code, are repealed.

23 SECTION 12. (a) On September 1, 2018, a license issued  
24 under former Section 2308.1555 or 2308.1556, Occupations Code,  
25 expires.

26 (b) The changes in law made by this Act to Section  
27 2308.051(a), Occupations Code, regarding the qualifications for a

1 member of the Towing and Storage Advisory Board do not affect the  
2 entitlement of a member serving on the board immediately before the  
3 effective date of this Act to continue to serve and function as a  
4 member of the board for the remainder of the member's term. When  
5 board vacancies occur on or after the effective date of this Act,  
6 the presiding officer of the Texas Commission of Licensing and  
7 Regulation shall appoint new members to the board in a manner that  
8 reflects the changes in law made by this Act.

9 (c) The changes in law made by this Act to Section [2308.255](#),  
10 Occupations Code, do not apply to the booting of a vehicle pursuant  
11 to a standing written agreement between a booting company and a  
12 parking facility owner entered into before the effective date of  
13 this Act. The booting of a vehicle pursuant to a standing written  
14 agreement entered into before the effective date of this Act is  
15 governed by the law as it existed immediately before the effective  
16 date of this Act, and that law is continued in effect for that  
17 purpose.

18 SECTION 13. This Act takes effect only if a specific  
19 appropriation for the implementation of the Act is provided in a  
20 general appropriations act of the 85th Legislature.

21 SECTION 14. Except as otherwise provided by this Act, this  
22 Act takes effect immediately if it receives a vote of two-thirds of  
23 all the members elected to each house, as provided by Section [39](#),  
24 Article III, Texas Constitution. If this Act does not receive the  
25 vote necessary for immediate effect, this Act takes effect  
26 September 1, 2017.